

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UPTOWN PRODUCE CONNECTION,
INC.,
Plaintiff,**

**ANTHONY MARANO COMPANY,
Intervening Plaintiff,**

v.

**TRI-COUNTY PRODUCE, INC.,
ANGELO MARANO, DAVID MARANO,
and PATRICIA MARANO,
Defendants.**

**Civil Action No. 08-C-3660
Judge Norgle
Magistrate Judge Nolan**

**ANTHONY MARANO COMPANY'S MOTION TO INTERVENE PURSUANT TO
FEDERAL RULE 24**

NOW COMES ANTHONY MARANO COMPANY (hereinafter "AMC"), by and through its attorneys, Lawrence B. Ordower and Michael T. Stanley of ORDOWER & ORDOWER, P.C., and as and for its Motion to Intervene Pursuant to Federal Rule 24, states as follows:

1. ANTHONY MARANO COMPANY CAN INTERVENE AS OF RIGHT IN THIS MATTER

1. AMC has an interest in the trust assets that are the subject of this action and would be impaired and impeded in its ability to protect that interest if not represented in this matter.
2. Federal Rules of Civil Procedure, Rule 24(a) provides for intervention as of right and states, in part,

"Upon timely application anyone shall be permitted to intervene in an action...(2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."

3. In this case, AMC is a supplier of perishable agricultural commodities (hereinafter

“Produce”) and has preserved its respective interest in a statutory trust pursuant to the Perishable Agricultural Commodities Act (hereinafter “PACA”) in the amount of \$89,126.50 by delivering invoices to Defendants which contain the language required by 7 U.S.C. §499e(c)(4).

4. AMC has attached its Intervening Complaint hereto as Exhibit A and its Affidavit of Anton Marano in Support of PACA Trust Claim hereto as Exhibit B. AMC alleges that it supplied Produce to Tri-County Produce, Inc. and that Angelo Marano, David Marano, and Patricia Marano were directors, officers, shareholders and/or principals of Tri-County Produce, Inc. who carried out the day to day operations of Tri-County Produce, Inc.
5. AMC alleges that Defendants breached the PACA trust by failing to pay for Produce when payment was due. AMC has a right to PACA trust assets held by Defendants.
6. Plaintiff Uptown Produce Connection, Inc. (hereinafter “Uptown”) filed its Complaint on June 26, 2008 alleging similar violations of PACA trust assets as those alleged by AMC. Uptown has been granted a temporary restraining order restraining Defendants and others from transferring PACA trust assets pending further order of this Court or a deposit in the amount of \$23,918.77 with the Registry of this Court.
7. Therefore, AMC and Uptown allege a right to the same trust corpus held by Defendants. Federal Rules of Civil Procedure, Rule 24(a) allows for intervention as of right under these circumstances and AMC should be allowed to intervene in this matter as of right.

2. THE TEMPORARY RESTRAINING ORDER ENTERED IN FAVOR OF UPTOWN SHOULD BE EXPANDED TO PROTECT THE INTEREST OF AMC

8. Uptown was granted a temporary restraining order on June 26, 2008 that restrains the transfer of assets of Tri-County until such time as the sum of \$23,918.77 is deposited

with the court. That amount should be increased to include the \$89,126.50 plus interest and attorney fees claimed by AMC.

9. PACA trusts consist of not only the Produce supplied, but also the proceeds of the sale of the Produce. 7 U.S.C. § 499e(c). In the event that trust assets are insufficient to pay the claims of all PACA trust creditors in full, qualified PACA trust creditors are entitled to a pro-rata distribution of the trust fund. In re Milton Poulos, Inc., 107 Bankr. 715 (9th Cir. B.A.P. 1989); J.R. Brooks & Sons, Inc. v. Norman's Country Market, Inc., 98 Bankr. 47 (Bankr. N.D. Fla. 1989); and In re United Fruit & Produce, 86 Bankr. 14 (Bankr. D. Conn. 1988). Anticipating this potential result and the likelihood that additional PACA trust creditors exist which are not yet parties to the litigation, the Frio Ice, S.A., v. Sunfruit, Inc. court ruled that the trust account should contain all trust assets, not just an amount sufficient to cover the claim of one PACA creditor, as the trust exists for the benefit of all unpaid suppliers, who would then be entitled to their pro-rata share. 918 F.2d 154, 159 (11th Cir. 1990) (emphasis added).
10. In this case, the Intervening Complaint and Affidavit of Anton Marano in Support of PACA Trust Claim allege and attest to the claim of AMC to PACA trust assets held by Tri-County in the amount of \$89,126.50. If Tri-County were to deposit \$23,918.77 with this court, as required within the existing temporary restraining order, AMC's claim to PACA trust assets would not be protected.
11. The Temporary Restraining Order entered on June 26, 2008 should be modified to require Tri-State to deposit with this court the sum of the claims by AMC and Uptown, or \$113,045.27 so that both PACA claimant's trust assets can be preserved.

WHEREFORE ANTHONY MARANO COMPANY prays that the Court grant its

Motion to Intervene Pursuant to Federal Rule 24 and that the Court modify its Temporary Restraining Order and restrain all transfers of PACA trust assets until such time as Defendants deposit \$113,045.27 with the Registry of this Court.

ANTHONY MARANO COMPANY

s/s Michael T. Stanley

One of its attorneys

Lawrence B. Ordower
Michael T. Stanley
Ordower & Ordower, P.C.
Attorney for Fruitland of Burr Ridge, Inc.
One North LaSalle Street, No. 1300
Chicago, Illinois 60602
(312) 263-5122
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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**UPTOWN PRODUCE CONNECTION,
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ANGELO MARANO, DAVID MARANO,
and PATRICIA MARANO,
Defendants.**

**Civil Action No. 08-C-3660
Judge Norgle
Magistrate Judge Nolan**

INTERVENING COMPLAINT
(To enforce payment from Produce Trust)

____ Intervening Plaintiff, ANTHONY MARANO COMPANY (hereinafter “AMC”) for its complaint against TRI-COUNTY PRODUCE, INC., an Illinois corporation, ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO (hereinafter collectively referred to as “Defendants”) allege:

Jurisdiction and Venue

1. Jurisdiction is based on Section 5(c)(5) of the Perishable Agricultural Commodities Act, 7 U.S.C. §499e(c)(5) (hereafter “the PACA”), 28 U.S.C. §1331 and 28 U.S.C. §1332.
2. Venue in this District is based on 28 U.S.C. § 1391 in that (a) Plaintiff’s claims arose in this District and (b) Defendants’ principal places of business are in this district.
3. Plaintiff AMC is an Illinois corporation with its principal place of business in Chicago, Illinois. Plaintiff is engaged in the business of buying and selling wholesale quantities of perishable agricultural commodities (hereafter “Produce”) in interstate commerce. At all

times pertinent herein, AMC was subject to and licensed under the PACA as a dealer under PACA license number 19189931.

4. (a) TRI-COUNTY PRODUCE, INC., an Illinois corporation (hereinafter "TRI-COUNTY"), having its principal place of business in Elgin, Illinois at all times pertinent herein, was subject to the provisions of the PACA.

(b) ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO, upon information and belief, were at all times pertinent herein, dealers and commission merchants and subject to the PACA, were also directors, officers, shareholders and/or principals of TRI-COUNTY, who carried out the day to day operations of TRI-COUNTY, during the period of time in question.

General Allegations

5. This action is brought to enforce the trust provisions of P.L. 98-273, the 1984 amendment to Section 5 of the PACA, 7 U.S.C. § 499 e(c).

6. Between October 30, 2007 and June 11, 2008, AMC sold and delivered to Defendants, in interstate commerce, \$89,126.50 worth of produce (see Statement attached hereto as "Exhibit 1").

7. Defendants have failed to pay for the produce when payment was due, despite repeated demands and presently owe AMC \$89,126.50, plus costs and interest.

8. At the time of receipt of the produce, AMC became beneficiary in a statutory trust designed to assure payment to produce suppliers. The trust consists of all produce or produce related assets, including all funds commingled with funds from other sources and all assets procured by such funds, in the possession or control of Defendants since the creation of this trust.

9. Plaintiff AMC preserved its respective interest in the PACA trust in the amount of \$89,126.50, by delivering invoices to Defendants which contain the language required by 7 U.S.C. §499e(c)(4).

10. Defendants' failure and inability to pay shows that Defendants are failing to maintain sufficient assets in the statutory trust to pay AMC and are dissipating trust assets.

Count I

(Failure to Pay Trust Funds)

11. AMC incorporates each and every allegation set forth in paragraphs 1 to 10 above as if fully set forth herein.

12. The failure of Defendants to make payment to AMC of trust funds in the amount of \$89,126.50 from the statutory trust is a violation of the PACA and PACA regulations, and is unlawful.

WHEREFORE, AMC requests an order enforcing payment from the trust by requiring Defendants, TRI-COUNTY PRODUCE, INC., an Illinois corporation, ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO, to make immediate payment of \$89,126.50 to AMC.

Count II

(Failure to Pay for Goods Sold)

13. AMC incorporates each and every allegation set forth in paragraphs 1 to 12 above as if fully set forth herein.

14. Defendants failed and refused to pay AMC \$89,126.50 owed to AMC for produce received by Defendants from AMC.

WHEREFORE, AMC requests judgment for AMC and against Defendants, TRI-COUNTY PRODUCE, INC., an Illinois corporation, ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO in the amount of \$89,126.50, jointly and severally.____

Count III

(Unlawful Dissipation of Trust Assets by Corporate Officials - Angelo Marano, David Marano, and Patricia Marano)

15. AMC incorporates each and every allegation set forth in paragraph 1 to 14 above as if fully set forth herein.

16. Angelo Marano, David Marano, and Patricia Marano were directors, officers, shareholders and/or principals of TRI-COUNTY, during the period of time in question.

17. Angelo Marano, David Marano, and Patricia Marano failed to direct the corporation to fulfill its statutory duties to preserve PACA trust assets and pay AMC for the produce it supplied.

18. Angelo Marano, David Marano, and Patricia Marano's failure to direct the corporation to maintain PACA trust assets and pay AMC for the produce it supplied was an unlawful dissipation of trust assets by a corporate official.

19. As a result of said unlawful dissipation of trust assets, AMC has been deprived of its rights as beneficiaries in the produce trust and has been denied payment for the produce it supplied.

WHEREFORE, AMC request judgment for AMC and against Angelo Marano, David Marano, and Patricia Marano in the amount of \$89,126.50, jointly and severally.

Count IV

(Failure to Pay Trust Funds - Angelo Marano, David Marano, and Patricia Marano)

20. AMC incorporates each and every allegation set forth in paragraphs 1 to 19 above as if fully set forth herein.

21. TRI-COUNTY is an Illinois corporation.

22. Angelo Marano, David Marano, and Patricia Marano assisted in the operation of TRI-COUNTY and, as individuals, were dealers and commission merchants subject to the PACA.

23. Angelo Marano, David Marano, and Patricia Marano's failure to make payment to AMC of trust funds in the amount of \$89,126.50 to AMC is a violation of the PACA and PACA regulations and is unlawful.

WHEREFORE, AMC requests judgment for AMC and against Angelo Marano, David Marano, and Patricia Marano jointly and severally in the amount of \$89,126.50 and an order against Angelo Marano, David Marano, and Patricia Marano enforcing payment from the trust in said amount.

Count V

(Interest and Attorney's Fees)

24. AMC incorporates each and every allegation set forth in paragraphs 1 to 23 above as if fully set forth herein.

25. As a result of Defendants' failure to make full payment promptly of \$89,126.50 to AMC, AMC has lost the use of said money.

26. As a further result of Defendants' failure to make full payment promptly of \$89,126.50 to AMC, AMC has been required to pay attorney's fees and costs in order to bring this action to require Defendants to comply with their statutory duties.

31. Invoices for produce sold to Defendants in this matter call for interest and attorney fees.

WHEREFORE, AMC requests judgment against each of the Defendants, TRI-COUNTY PRODUCE, INC., an Illinois corporation, ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO, jointly and severally, for prejudgment and post-judgment interest, costs and attorneys fees.

Respectfully submitted,

s/s Michael T. Stanley
Michael T. Stanley

Michael T. Stanley
Lawrence B. Ordower
Ordower & Ordower, P.C.
One N. LaSalle Street, Ste. 1300
Chicago, IL 60602
(312) 263-5122

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STATEMENT
ANTHONY MARANO COMPANY

3000 South Ashland Avenue • Suite 100 • Chicago, Illinois 60608-5348
 Phone (773) 321-7500 • Fax (773) 321-7578

DAVID MARANO
 TRI COUNTY \$
 408 BROOK STREET
 ELGIN, IL 60120

CUSTOMER NO.
 T100
 STATEMENT DATE
 07/05/2008

"The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by Section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received."

Page 1

PLEASE CHECK () INVOICES BEING PAID
 AND RETURN THIS PORTION WITH YOUR
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CUSTOMER NO.
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 TRI COUNTY \$

AMOUNT PAID →

TRANS'N DATE	INVOICE NO.	AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
10/30/2007	A131499		260.00		260.00	A131499	260.00	260.00
10/30/2007	A131515		54.00		54.00	A131515	54.00	314.00
10/30/2007	A131520		158.00		158.00	A131520	158.00	472.00
10/30/2007	A131544		114.00		114.00	A131544	114.00	586.00
10/31/2007	A132701		321.00		321.00	A132701	321.00	907.00
10/31/2007	A132703		300.00		300.00	A132703	300.00	1,207.00
10/31/2007	A132719		177.50		177.50	A132719	177.50	1,384.50
10/31/2007	A132723		196.00		196.00	A132723	196.00	1,580.50
10/31/2007	A132805		185.00		185.00	A132805	185.00	1,765.50
11/01/2007	A134160		130.00		130.00	A134160	130.00	1,895.50
11/01/2007	A134164		420.50		420.50	A134164	420.50	2,316.00
11/01/2007	A134304		52.00		52.00	A134304	52.00	2,368.00
11/01/2007	A134314		298.00		298.00	A134314	298.00	2,666.00
11/02/2007	A136539		-66.00	Ref:A1345-28	-66.00	A136539	-66.00	2,600.00
11/02/2007	A136961		-320.00	Ref:A1345-26	-320.00	A136961	-320.00	2,280.00
11/02/2007	A134526		1,015.00		1,015.00	A134526	1,015.00	3,295.00
11/02/2007	A134528		1,661.00		1,661.00	A134528	1,661.00	4,956.00
11/02/2007	A135126		615.00		615.00	A135126	615.00	5,571.00
11/02/2007	A135349		545.00		545.00	A135349	545.00	6,116.00
11/02/2007	A135649		30.00		30.00	A135649	30.00	6,146.00
11/02/2007	A135650		104.00		104.00	A135650	104.00	6,250.00
11/02/2007	A135655		100.50		100.50	A135655	100.50	6,350.50
11/02/2007	A135669		57.00		57.00	A135669	57.00	6,407.50
11/02/2007	A135671		12.00		12.00	A135671	12.00	6,419.50
11/02/2007	A135682		64.00		64.00	A135682	64.00	6,483.50
11/02/2007	A136233		93.00		93.00	A136233	93.00	6,576.50
11/05/2007	A137264		189.00		189.00	A137264	189.00	6,765.50
11/05/2007	A137266		7.50		7.50	A137266	7.50	6,773.00

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

* A finance charge of 1 - 1/2% per month (annual fee 18%) will be charged on past due balances over 30 days. In the event legal action is commenced to collect the balance due under this invoice, the prevailing party shall be entitled to recover all Court costs and reasonable attorneys' fees incurred thereby.


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Page 2

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TRANS'N DATE	INVOICE NO. ✓ AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
11/05/2007	A137295	138.50		138.50	A137295	138.50	6,911.50
11/05/2007	A137912	107.50		107.50	A137912	107.50	7,019.00
11/05/2007	A137985	80.00		80.00	A137985	80.00	7,099.00
11/05/2007	A137988	58.00		58.00	A137988	58.00	7,157.00
11/05/2007	A137989	49.00		49.00	A137989	49.00	7,206.00
11/06/2007	A140843	586.00		586.00	A140843	586.00	7,792.00
11/06/2007	A140921	375.00		375.00	A140921	375.00	8,167.00
11/06/2007	A141073	152.00		152.00	A141073	152.00	8,319.00
11/07/2007	A142042	98.00		98.00	A142042	98.00	8,417.00
11/07/2007	A142043	276.00		276.00	A142043	276.00	8,693.00
11/07/2007	A142105	126.00		126.00	A142105	126.00	8,819.00
11/07/2007	A142133	240.00		240.00	A142133	240.00	9,059.00
11/07/2007	A142146	13.00		13.00	A142146	13.00	9,072.00
11/07/2007	A142277	14.50		14.50	A142277	14.50	9,086.50
11/07/2007	A142286	35.00		35.00	A142286	35.00	9,121.50
11/07/2007	A142288	540.00		540.00	A142288	540.00	9,661.50
11/08/2007	A143592	167.00		167.00	A143592	167.00	9,828.50
11/08/2007	A143627	75.00		75.00	A143627	75.00	9,903.50
11/08/2007	A143793	60.00		60.00	A143793	60.00	9,963.50
11/08/2007	A144307	700.00		700.00	A144307	700.00	10,663.50
11/09/2007	A143765	602.00		602.00	A143765	602.00	11,265.50
11/09/2007	A143942	1,592.00		1,592.00	A143942	1,592.00	12,857.50
11/09/2007	A144080	400.00		400.00	A144080	400.00	13,257.50
11/09/2007	A144520	570.00		570.00	A144520	570.00	13,827.50
11/09/2007	A145090	71.00		71.00	A145090	71.00	13,898.50
11/09/2007	A145092	60.00		60.00	A145092	60.00	13,958.50
11/09/2007	A145106	104.00		104.00	A145106	104.00	14,062.50
11/09/2007	A145109	191.50		191.50	A145109	191.50	14,254.00

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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11/09/2007	A145160	187.00		187.00	A145160	187.00	14,441.00
11/09/2007	A145166	14.00		14.00	A145166	14.00	14,455.00
11/09/2007	A145168	14.00		14.00	A145168	14.00	14,469.00
11/09/2007	A145321	120.00		120.00	A145321	120.00	14,589.00
11/13/2007	A150415	-67.50	Ref:A1451-09	-67.50	A150415	-67.50	14,521.50
11/13/2007	A150147	82.00		82.00	A150147	82.00	14,603.50
11/13/2007	A150148	273.00		273.00	A150148	273.00	14,876.50
11/14/2007	A151377	350.00		350.00	A151377	350.00	15,226.50
11/14/2007	A151380	60.00		60.00	A151380	60.00	15,286.50
11/14/2007	A151390	21.00		21.00	A151390	21.00	15,307.50
11/14/2007	A151410	238.00		238.00	A151410	238.00	15,545.50
11/14/2007	A151546	12.00		12.00	A151546	12.00	15,557.50
11/14/2007	A151574	106.00		106.00	A151574	106.00	15,663.50
11/15/2007	A152667	349.00		349.00	A152667	349.00	16,012.50
11/15/2007	A152687	106.00		106.00	A152687	106.00	16,118.50
11/15/2007	A152777	216.00		216.00	A152777	216.00	16,334.50
11/15/2007	A152780	210.00		210.00	A152780	210.00	16,544.50
11/15/2007	A152937	764.00		764.00	A152937	764.00	17,308.50
11/15/2007	A152965	1,644.00		1,644.00	A152965	1,644.00	18,952.50
11/15/2007	A152968	1,225.00		1,225.00	A152968	1,225.00	20,177.50
11/16/2007	A153954	900.00		900.00	A153954	900.00	21,077.50
11/16/2007	A154111	124.00		124.00	A154111	124.00	21,201.50
11/16/2007	A154270	306.00		306.00	A154270	306.00	21,507.50
11/16/2007	A154274	178.00		178.00	A154274	178.00	21,685.50
11/16/2007	A154275	100.50		100.50	A154275	100.50	21,786.00
11/20/2007	A159432	147.00		147.00	A159432	147.00	21,933.00
11/20/2007	A159444	245.50		245.50	A159444	245.50	22,178.50
11/20/2007	A159547	490.00		490.00	A159547	490.00	22,668.50

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TRANS'N DATE	INVOICE NO. ✓ AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
11/20/2007	A159564	349.00		349.00	A159564	349.00	23,017.50
11/20/2007	A159566	103.00		103.00	A159566	103.00	23,120.50
11/20/2007	A159781	31.00		31.00	A159781	31.00	23,151.50
11/21/2007	A161275	563.50		563.50	A161275	563.50	23,715.00
11/21/2007	A161329	255.00		255.00	A161329	255.00	23,970.00
11/21/2007	A161347	100.00		100.00	A161347	100.00	24,070.00
11/21/2007	A161377	370.50		370.50	A161377	370.50	24,440.50
11/21/2007	A161602	67.50		67.50	A161602	67.50	24,508.00
11/23/2007	A161548	1,320.00		1,320.00	A161548	1,320.00	25,828.00
11/23/2007	A162530	397.50		397.50	A162530	397.50	26,225.50
11/23/2007	A162624	90.00		90.00	A162624	90.00	26,315.50
11/23/2007	A162695	840.00		840.00	A162695	840.00	27,155.50
11/23/2007	A162919	120.00		120.00	A162919	120.00	27,275.50
11/23/2007	A162921	132.00		132.00	A162921	132.00	27,407.50
11/23/2007	A162930	419.00		419.00	A162930	419.00	27,826.50
11/27/2007	A167360	140.00		140.00	A167360	140.00	27,966.50
11/27/2007	A167361	35.00		35.00	A167361	35.00	28,001.50
11/27/2007	A167362	207.50		207.50	A167362	207.50	28,209.00
11/27/2007	A167366	143.00		143.00	A167366	143.00	28,352.00
11/27/2007	A167400	24.00		24.00	A167400	24.00	28,376.00
11/28/2007	A168672	172.00		172.00	A168672	172.00	28,548.00
11/28/2007	A168676	105.00		105.00	A168676	105.00	28,653.00
11/28/2007	A168679	280.00		280.00	A168679	280.00	28,933.00
11/28/2007	A168688	96.00		96.00	A168688	96.00	29,029.00
11/28/2007	A168691	195.00		195.00	A168691	195.00	29,224.00
11/29/2007	A170301	280.00		280.00	A170301	280.00	29,504.00
11/29/2007	A170309	422.00		422.00	A170309	422.00	29,926.00
11/29/2007	A170313	28.00		28.00	A170313	28.00	29,954.00

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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DAVID MARANO
TRI COUNTY \$
408 BROOK STREET
ELGIN, IL 60120

CUSTOMER
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T100

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Page 5

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TRANS'N DATE	INVOICE NO.	AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
11/29/2007	A170317		152.00		152.00	A170317	152.00	30,106.00
11/29/2007	A170324		92.00		92.00	A170324	92.00	30,198.00
11/30/2007	A172562		-165.00	Ref:A1714-77	-165.00	A172562	-165.00	30,033.00
11/30/2007	A170428		325.00		325.00	A170428	325.00	30,358.00
11/30/2007	A170456		360.00		360.00	A170456	360.00	30,718.00
11/30/2007	A170460		2,024.00		2,024.00	A170460	2,024.00	32,742.00
11/30/2007	A171418		93.00		93.00	A171418	93.00	32,835.00
11/30/2007	A171448		140.00		140.00	A171448	140.00	32,975.00
11/30/2007	A171477		398.50		398.50	A171477	398.50	33,373.50
11/30/2007	A171489		260.00		260.00	A171489	260.00	33,633.50
11/30/2007	A171501		96.00		96.00	A171501	96.00	33,729.50
11/30/2007	A171503		112.50		112.50	A171503	112.50	33,842.00
11/30/2007	A171520		24.25		24.25	A171520	24.25	33,866.25
11/30/2007	A171703		67.50		67.50	A171703	67.50	33,933.75
11/30/2007	A171715		54.00		54.00	A171715	54.00	33,987.75
12/03/2007	A173535		-58.00	Ref:A1729-94	-58.00	A173535	-58.00	33,929.75
12/03/2007	A172994		270.50		270.50	A172994	270.50	34,200.25
12/03/2007	A173092		32.00		32.00	A173092	32.00	34,232.25
12/03/2007	A173099		16.00		16.00	A173099	16.00	34,248.25
12/03/2007	A173107		7.50		7.50	A173107	7.50	34,255.75
12/03/2007	A173541		24.00		24.00	A173541	24.00	34,279.75
12/04/2007	A176505		228.00		228.00	A176505	228.00	34,507.75
12/04/2007	A176639		340.00		340.00	A176639	340.00	34,847.75
12/04/2007	A176643		226.50		226.50	A176643	226.50	35,074.25
12/04/2007	A176647		437.50		437.50	A176647	437.50	35,511.75
12/04/2007	A176658		236.00		236.00	A176658	236.00	35,747.75
12/05/2007	A178166		-54.00	Ref:A1714-89	-54.00	A178166	-54.00	35,693.75
12/05/2007	A177964		202.50		202.50	A177964	202.50	35,896.25

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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TRANS'N DATE	INVOICE NO.	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
12/05/2007	A177985	445.00		445.00	A177985	445.00	36,341.25
12/05/2007	A178035	16.00		16.00	A178035	16.00	36,357.25
12/05/2007	A178036	112.50		112.50	A178036	112.50	36,469.75
12/05/2007	A178037	117.00		117.00	A178037	117.00	36,586.75
12/05/2007	A178041	145.00		145.00	A178041	145.00	36,731.75
12/06/2007	A179417	350.00		350.00	A179417	350.00	37,081.75
12/06/2007	A179432	37.00		37.00	A179432	37.00	37,118.75
12/06/2007	A179450	152.00		152.00	A179450	152.00	37,270.75
12/06/2007	A179466	212.00		212.00	A179466	212.00	37,482.75
12/07/2007	A182060	-40.00	Ref:A1797-18	-40.00	A182060	-40.00	37,442.75
12/07/2007	A179694	1,627.00		1,627.00	A179694	1,627.00	39,069.75
12/07/2007	A179703	482.50		482.50	A179703	482.50	39,552.25
12/07/2007	A179718	665.00		665.00	A179718	665.00	40,217.25
12/07/2007	A180439	657.50		657.50	A180439	657.50	40,874.75
12/07/2007	A180614	93.00		93.00	A180614	93.00	40,967.75
12/07/2007	A180634	400.00		400.00	A180634	400.00	41,367.75
12/07/2007	A180806	112.00		112.00	A180806	112.00	41,479.75
12/07/2007	A180817	386.50		386.50	A180817	386.50	41,866.25
12/07/2007	A180824	214.00		214.00	A180824	214.00	42,080.25
12/07/2007	A180830	240.00		240.00	A180830	240.00	42,320.25
12/07/2007	A180910	166.00		166.00	A180910	166.00	42,486.25
12/07/2007	A180990	152.50		152.50	A180990	152.50	42,638.75
12/07/2007	A181042	67.50		67.50	A181042	67.50	42,706.25
12/11/2007	A185604	221.00		221.00	A185604	221.00	42,927.25
12/11/2007	A185614	142.50		142.50	A185614	142.50	43,069.75
12/11/2007	A185721	68.00		68.00	A185721	68.00	43,137.75
12/11/2007	A185724	160.00		160.00	A185724	160.00	43,297.75
12/11/2007	A185730	189.00		189.00	A185730	189.00	43,486.75

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12/11/2007	A185816		55.00		55.00	A185816	55.00	43,541.75
12/12/2007	A186888		112.00		112.00	A186888	112.00	43,653.75
12/12/2007	A186889		505.00		505.00	A186889	505.00	44,158.75
12/12/2007	A186905		125.00		125.00	A186905	125.00	44,283.75
12/12/2007	A186908		82.00		82.00	A186908	82.00	44,365.75
12/13/2007	A187980		324.75		324.75	A187980	324.75	44,690.50
12/13/2007	A187988		273.00		273.00	A187988	273.00	44,963.50
12/13/2007	A188181		83.00		83.00	A188181	83.00	45,046.50
12/13/2007	A188193		331.00		331.00	A188193	331.00	45,377.50
12/13/2007	A188259		54.00		54.00	A188259	54.00	45,431.50
12/14/2007	A190426		-130.00	Ref:A1893-75	-130.00	A190426	-130.00	45,301.50
12/14/2007	A190432		-40.50	Ref:A1893-90	-40.50	A190432	-40.50	45,261.00
12/14/2007	A190449		-17.75	Ref:A1893-57	-17.75	A190449	-17.75	45,243.25
12/14/2007	A188266		2,164.00		2,164.00	A188266	2,164.00	47,407.25
12/14/2007	A188274		427.00		427.00	A188274	427.00	47,834.25
12/14/2007	A188336		540.00		540.00	A188336	540.00	48,374.25
12/14/2007	A188342		400.00		400.00	A188342	400.00	48,774.25
12/14/2007	A189021		558.50		558.50	A189021	558.50	49,332.75
12/14/2007	A189209		241.50		241.50	A189209	241.50	49,574.25
12/14/2007	A189348		252.00		252.00	A189348	252.00	49,826.25
12/14/2007	A189356		130.00		130.00	A189356	130.00	49,956.25
12/14/2007	A189357		178.75		178.75	A189357	178.75	50,135.00
12/14/2007	A189369		32.00		32.00	A189369	32.00	50,167.00
12/14/2007	A189371		102.00		102.00	A189371	102.00	50,269.00
12/14/2007	A189375		634.00		634.00	A189375	634.00	50,903.00
12/14/2007	A189390		363.00		363.00	A189390	363.00	51,266.00
12/14/2007	A189431		20.00		20.00	A189431	20.00	51,286.00
12/14/2007	A189437		28.00		28.00	A189437	28.00	51,314.00

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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12/14/2007	A189609		27.00		27.00	A189609	27.00	51,341.00
12/17/2007	A190921		317.00		317.00	A190921	317.00	51,658.00
12/17/2007	A190922		238.50		238.50	A190922	238.50	51,896.50
12/18/2007	A194254		162.00		162.00	A194254	162.00	52,058.50
12/18/2007	A194270		70.00		70.00	A194270	70.00	52,128.50
12/18/2007	A194271		32.00		32.00	A194271	32.00	52,160.50
12/18/2007	A194275		35.00		35.00	A194275	35.00	52,195.50
12/18/2007	A194310		183.00		183.00	A194310	183.00	52,378.50
12/19/2007	A195461		222.00		222.00	A195461	222.00	52,600.50
12/19/2007	A195462		510.00		510.00	A195462	510.00	53,110.50
12/19/2007	A195463		112.00		112.00	A195463	112.00	53,222.50
12/19/2007	A195465		756.00		756.00	A195465	756.00	53,978.50
12/19/2007	A195498		144.00		144.00	A195498	144.00	54,122.50
12/20/2007	A197035		94.50		94.50	A197035	94.50	54,217.00
12/20/2007	A197039		154.00		154.00	A197039	154.00	54,371.00
12/20/2007	A197072		150.50		150.50	A197072	150.50	54,521.50
12/20/2007	A197304		439.00		439.00	A197304	439.00	54,960.50
12/21/2007	A197302		2,320.00		2,320.00	A197302	2,320.00	57,280.50
12/21/2007	A197384		790.00		790.00	A197384	790.00	58,070.50
12/21/2007	A198112		706.00		706.00	A198112	706.00	58,776.50
12/21/2007	A198182		155.00		155.00	A198182	155.00	58,931.50
12/21/2007	A198448		195.50		195.50	A198448	195.50	59,127.00
12/21/2007	A198449		734.00		734.00	A198449	734.00	59,861.00
12/21/2007	A198452		112.00		112.00	A198452	112.00	59,973.00
12/21/2007	A198469		263.00		263.00	A198469	263.00	60,236.00
12/21/2007	A198613		32.00		32.00	A198613	32.00	60,268.00
12/21/2007	A198723		75.00		75.00	A198723	75.00	60,343.00
12/24/2007	A200104		189.00		189.00	A200104	189.00	60,532.00

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12/26/2007	A203706		147.00		147.00	A203706	147.00	60,679.00
12/26/2007	A203712		400.00		400.00	A203712	400.00	61,079.00
12/26/2007	A203714		172.00		172.00	A203714	172.00	61,251.00
12/26/2007	A203715		236.00		236.00	A203715	236.00	61,487.00
12/26/2007	A203724		94.50		94.50	A203724	94.50	61,581.50
12/27/2007	A204825		70.00		70.00	A204825	70.00	61,651.50
12/27/2007	A204828		92.00		92.00	A204828	92.00	61,743.50
12/27/2007	A204829		75.00		75.00	A204829	75.00	61,818.50
12/27/2007	A204830		604.50		604.50	A204830	604.50	62,423.00
12/27/2007	A204844		71.00		71.00	A204844	71.00	62,494.00
12/27/2007	A204978		15.00		15.00	A204978	15.00	62,509.00
12/27/2007	A205025		44.00		44.00	A205025	44.00	62,553.00
12/28/2007	A207398		-52.00	Ref:A206279	-52.00	A207398	-52.00	62,501.00
12/28/2007	A204982		389.00		389.00	A204982	389.00	62,890.00
12/28/2007	A205012		590.00		590.00	A205012	590.00	63,480.00
12/28/2007	A205095		1,668.00		1,668.00	A205095	1,668.00	65,148.00
12/28/2007	A205981		150.00		150.00	A205981	150.00	65,298.00
12/28/2007	A206106		350.00		350.00	A206106	350.00	65,648.00
12/28/2007	A206193		515.00		515.00	A206193	515.00	66,163.00
12/28/2007	A206241		112.00		112.00	A206241	112.00	66,275.00
12/28/2007	A206245		96.00		96.00	A206245	96.00	66,371.00
12/28/2007	A206272		378.50		378.50	A206272	378.50	66,749.50
12/28/2007	A206278		20.00		20.00	A206278	20.00	66,769.50
12/28/2007	A206279		286.00		286.00	A206279	286.00	67,055.50
01/08/2008	A220041		75.00		75.00	A220041	75.00	67,130.50
01/08/2008	A220043		195.00		195.00	A220043	195.00	67,325.50
01/08/2008	A220045		84.00		84.00	A220045	84.00	67,409.50
01/08/2008	A220049		149.50		149.50	A220049	149.50	67,559.00

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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STATEMENT
ANTHONY MARANO COMPANY

 3000 South Ashland Avenue • Suite 100 • Chicago, Illinois 60608-5348
 Phone (773) 321-7500 • Fax (773) 321-7578

 DAVID MARANO
 TRI COUNTY \$
 408 BROOK STREET
 ELGIN, IL 60120

 CUSTOMER NO.
 T100
 STATEMENT DATE
 07/05/2008

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Page 10

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 TRI COUNTY \$

AMOUNT PAID →

TRANS'N DATE	INVOICE NO.	AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
01/08/2008	A220054		98.00		98.00	A220054	98.00	67,657.00
01/08/2008	A220174		71.50		71.50	A220174	71.50	67,728.50
01/09/2008	A221267		285.00		285.00	A221267	285.00	68,013.50
01/09/2008	A221268		230.00		230.00	A221268	230.00	68,243.50
01/09/2008	A221275		112.00		112.00	A221275	112.00	68,355.50
01/09/2008	A221281		114.00		114.00	A221281	114.00	68,469.50
01/09/2008	A221337		178.50		178.50	A221337	178.50	68,648.00
01/09/2008	A221341		191.00		191.00	A221341	191.00	68,839.00
01/10/2008	A222661		367.50		367.50	A222661	367.50	69,206.50
01/10/2008	A222667		191.00		191.00	A222667	191.00	69,397.50
01/10/2008	A222679		112.00		112.00	A222679	112.00	69,509.50
01/10/2008	A222683		22.00		22.00	A222683	22.00	69,531.50
01/10/2008	A222727		40.00		40.00	A222727	40.00	69,571.50
01/10/2008	A222739		30.00		30.00	A222739	30.00	69,601.50
01/10/2008	A222897		111.00		111.00	A222897	111.00	69,712.50
01/11/2008	A222858		1,378.50		1,378.50	A222858	1,378.50	71,091.00
01/11/2008	A222925		319.00		319.00	A222925	319.00	71,410.00
01/11/2008	A223906		668.50		668.50	A223906	668.50	72,078.50
01/11/2008	A223991		186.00		186.00	A223991	186.00	72,264.50
01/11/2008	A224064		900.00		900.00	A224064	900.00	73,164.50
01/11/2008	A224132		86.00		86.00	A224132	86.00	73,250.50
01/11/2008	A224135		402.50		402.50	A224135	402.50	73,653.00
01/11/2008	A224140		32.50		32.50	A224140	32.50	73,685.50
01/11/2008	A224150		112.00		112.00	A224150	112.00	73,797.50
01/11/2008	A224156		143.50		143.50	A224156	143.50	73,941.00
01/11/2008	A224165		150.00		150.00	A224165	150.00	74,091.00
01/11/2008	A224239		168.00		168.00	A224239	168.00	74,259.00
01/15/2008	A229047		155.00		155.00	A229047	155.00	74,414.00

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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CUSTOMER NO. T100	STATEMENT DATE 07/05/2008
CUSTOMER NAME TRI COUNTY \$	

AMOUNT PAID

TRANS'N DATE	INVOICE NO. ✓ AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
01/15/2008	A229055	70.00		70.00	A229055	70.00	74,484.00
01/15/2008	A229071	146.00		146.00	A229071	146.00	74,630.00
01/15/2008	A229131	280.00		280.00	A229131	280.00	74,910.00
01/15/2008	A229132	47.50		47.50	A229132	47.50	74,957.50
01/15/2008	A229326	130.00		130.00	A229326	130.00	75,087.50
01/16/2008	A230182	511.00		511.00	A230182	511.00	75,598.50
01/16/2008	A230200	270.00		270.00	A230200	270.00	75,868.50
01/16/2008	A230208	195.00		195.00	A230208	195.00	76,063.50
01/16/2008	A230265	22.00		22.00	A230265	22.00	76,085.50
01/16/2008	A230363	142.00		142.00	A230363	142.00	76,227.50
01/17/2008	A231712	350.00		350.00	A231712	350.00	76,577.50
01/17/2008	A231713	243.50		243.50	A231713	243.50	76,821.00
01/17/2008	A231715	183.50		183.50	A231715	183.50	77,004.50
01/18/2008	A231714	136.00		136.00	A231714	136.00	77,140.50
01/18/2008	A231874	266.00		266.00	A231874	266.00	77,406.50
01/18/2008	A231891	1,349.00		1,349.00	A231891	1,349.00	78,755.50
01/18/2008	A232149	798.00		798.00	A232149	798.00	79,553.50
01/18/2008	A232846	587.50		587.50	A232846	587.50	80,141.00
01/18/2008	A233096	403.50		403.50	A233096	403.50	80,544.50
01/18/2008	A233120	532.00		532.00	A233120	532.00	81,076.50
01/18/2008	A233123	112.00		112.00	A233123	112.00	81,188.50
01/18/2008	A233141	242.00		242.00	A233141	242.00	81,430.50
01/18/2008	A233155	182.00		182.00	A233155	182.00	81,612.50
01/18/2008	A233312	64.00		64.00	A233312	64.00	81,676.50
01/18/2008	A233447	98.00		98.00	A233447	98.00	81,774.50
01/22/2008	A237820	96.00		96.00	A237820	96.00	81,870.50
01/22/2008	A237825	280.00		280.00	A237825	280.00	82,150.50
01/22/2008	A237830	223.00		223.00	A237830	223.00	82,373.50

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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REMITTANCE ADVICE
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TRANS'N DATE	INVOICE NO. ✓ AGE	CHARGES AMOUNT	PAYMENT AMOUNT	BALANCE AMOUNT	INVOICE NO. ✓	INVOICE AMOUNT	BALANCE AMOUNT
01/22/2008	A237952	204.00		204.00	A237952	204.00	82,577.50
01/22/2008	A237979	69.00		69.00	A237979	69.00	82,646.50
01/22/2008	A238003	31.00		31.00	A238003	31.00	82,677.50
01/23/2008	A239077	166.00		166.00	A239077	166.00	82,843.50
01/23/2008	A239082	77.00		77.00	A239082	77.00	82,920.50
01/23/2008	A239086	138.00		138.00	A239086	138.00	83,058.50
01/23/2008	A239094	180.00		180.00	A239094	180.00	83,238.50
01/23/2008	A239108	231.00		231.00	A239108	231.00	83,469.50
01/23/2008	A239214	238.00		238.00	A239214	238.00	83,707.50
01/24/2008	A240415	304.00		304.00	A240415	304.00	84,011.50
01/24/2008	A240479	195.00		195.00	A240479	195.00	84,206.50
01/24/2008	A240615	60.00		60.00	A240615	60.00	84,266.50
01/24/2008	A240617	75.00		75.00	A240617	75.00	84,341.50
01/24/2008	A240625	147.00		147.00	A240625	147.00	84,488.50
01/25/2008	A243020	-15.00	Ref:A240732	-15.00	A243020	-15.00	84,473.50
01/25/2008	A240659	1,094.00		1,094.00	A240659	1,094.00	85,567.50
01/25/2008	A240732	471.00		471.00	A240732	471.00	86,038.50
01/25/2008	A240875	400.00		400.00	A240875	400.00	86,438.50
01/25/2008	A240909	510.00		510.00	A240909	510.00	86,948.50
01/25/2008	A241425	530.00		530.00	A241425	530.00	87,478.50
01/25/2008	A241609	155.00		155.00	A241609	155.00	87,633.50
01/25/2008	A241697	180.00		180.00	A241697	180.00	87,813.50
01/25/2008	A241710	262.50		262.50	A241710	262.50	88,076.00
01/25/2008	A241714	268.00		268.00	A241714	268.00	88,344.00
01/25/2008	A241722	528.00		528.00	A241722	528.00	88,872.00
01/25/2008	A241724	40.50		40.50	A241724	40.50	88,912.50
01/29/2008	A246552	-40.50	Ref:A241724	-40.50	A246552	-40.50	88,872.00
01/29/2008	A246461	200.50		200.50	A246461	200.50	89,072.50

TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES* Continued

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Case 1:08-cv-03660 Document 22-2 Filed 07/14/08 Page 10 of 19 STATEMENT REMITTANCE ADVICE

se 1:08-cv-03660 Document 22-2 Filed
ANTHONY MARANO COMPANY

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DAVID MARANO
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07/05/2008

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TERMS: NET 10 DAYS FOLLOWING DATE OF PURCHASES*

*** FINANCIAL PAYMENT PLAN:** A finance charge of 1 - 1/2% per month (annual fee 18%) will be charged on past due balances over 30 days. In the event legal action is commenced to collect the balance due under this invoice, the prevailing party shall be entitled to recover all Court costs and reasonable attorneys' fees incurred thereby.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UPTOWN PRODUCE CONNECTION,
INC.,
Plaintiff,**

**ANTHONY MARANO COMPANY,
Intervening Plaintiff,**

v.

**TRI-COUNTY PRODUCE, INC.,
ANGELO MARANO, DAVID MARANO,
and PATRICIA MARANO,
Defendants.**

**Civil Action No. 08-C-3660
Judge Norgle
Magistrate Judge Nolan**

AFFIDAVIT OF ANTON MARANO IN SUPPORT OF PACA TRUST CLAIM

I, ANTON MARANO, declare and state as follows:

1. I am the President of Plaintiff, ANTHONY MARANO COMPANY (hereinafter “AMC”), and, in such position I am authorized to make and furnish this Affidavit and am competent to testify at trial to the matters set forth in this Affidavit.
2. AMC seeks to expand the temporary restraining order previously entered against TRI-COUNTY PRODUCE, INC., an Illinois corporation, ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO, and seeks to increase the amount required to be deposited with the Court to include the interest of AMC in the statutory trust created under the Perishable Agricultural Commodities Act, 1930, 7.U.S.C. Sections 499a-499t, as amended (“PACA”). All of the PACA trust assets are in the custody and control of the Defendants.
3. I am personally familiar with all matters which are the subject of this proceeding and the facts set forth in this affidavit are within my personal knowledge. If called upon as a witness,

I would and could competently testify to all facts stated in this affidavit.

4. AMC is a business located in Chicago, Illinois, which sells wholesale quantities of perishable agricultural commodities (hereafter "Produce"). AMC is a Produce dealer subject to and licensed under the Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. §499 *et. seq.* (hereafter "PACA").

5. a. TRI-COUNTY PRODUCE, INC., an Illinois corporation, was a Produce dealer as defined by 7 U.S.C. §499a and operated subject to the PACA.

b. Upon information and belief, ANGELO MARANO, DAVID MARANO, and PATRICIA MARANO were the directors, officers, shareholders and/or principals of TRI-COUNTY PRODUCE, INC., and were responsible for the day to day operations of the corporation during the time in question.

6. The sales and accounts receivable records of AMC, including, but not limited to, invoices and account statements, are made in the ordinary course of business and are made at or near the time of the occurrence of the event of which they are a record. These business records are made by me or under my direction and supervision by employees whose duty it is to prepare such documents.

7. My responsibilities include monitoring the sale of perishable agricultural commodities, including those sales that are the subject of this dispute. My responsibilities also include supervising collection of the accounts receivable for such sales, including Defendants' account which is the subject of the present motion. I have custody and control of the sales and accounts receivable records of AMC as they relate to Defendants and I am thoroughly familiar with the manner in which those records are compiled.

8. Between October 30, 2007 and June 11, 2008, AMC sold and delivered to Defendants, in interstate commerce, various wholesale lots of produce worth \$89,126.50 (a copy of a detailed statement listing the outstanding invoices is attached to the Complaint as Exhibit 1).

9. Defendants accepted the produce received from AMC.

10. AMC preserved its interest in the PACA trust in the amount of \$89,126.50 by timely delivering invoices to Defendants, which contained the language required under Section 5(c) of the Perishable Agricultural Commodities Act (“PACA”), 7 U.S.C. §499e(c).

11. Defendants are obligated to hold in trust all produce-related assets received from the sale of produce in order to pay \$89,126.50 to AMC.

12. Unless the assets of the defendant corporation are frozen, it is likely the trust assets will continue to be dissipated. As a result, AMC will suffer immediate and irreparable harm because it will lose the trust assets and rights that are owed under the statute.

13. Plaintiff operated its business under a valid PACA license issued by the United States Department of Agriculture, Agricultural Marketing Service, PACA Branch, Fruit & Vegetable Division.

14. AMC sold to Defendants Produce as described in the Statement, true copies of which are attached to the Complaint as Exhibit 1, for the sum of \$89,126.50 which remains unpaid.

15. The Produce sold to Defendants consisted of fresh fruits or vegetables, each of which are the type of Produce commonly shipped in interstate commerce and, accordingly, subject to the provisions of the PACA.

16. Defendants have not disputed by any written information that AMC is owed the sum of \$89,126.50 and has failed to pay AMC, despite repeated demands for payment.

17. Defendants are obligated to hold all assets received from the sale of Produce in trust in order to pay AMC.

18. Defendants have failed to pay AMC's invoices, and it appears that, based upon Defendants' actions at this time, that it clearly does not have sufficient funds to satisfy AMC's PACA trust claim in full as required by the PACA.

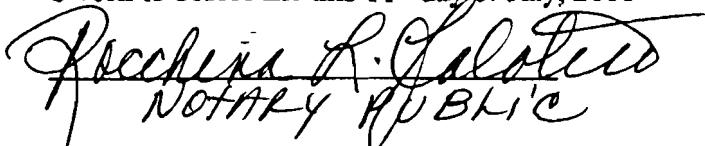
19. That based upon Defendants' failure to pay AMC, it is feared that the trust has been dissipated and will continue to be dissipated and in further jeopardy, and that AMC will suffer irreparable harm, if the assets of the Defendants are not frozen immediately.

I do solemnly declare under the penalties of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.



ANTON MARANO

Sworn to before me this 11th day of July, 2008



NOTARY PUBLIC

Ordower & Ordower, P.C.
One North LaSalle Street
Suite 1300
Chicago, Illinois 60602



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